

City of Cambridge

MASSACHUSETTS

BOARD OF ZONING APPEAL

831 Mass Avenue, Cambridge, MA. (617) 349-6100

BOARD OF ZONING APPEAL (BZA)

PROCEDURES & APPLICATION

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BEFORE YOU BUY, OR RENT PROPERTY IN THE CITY OF CAMBRIDGE, CHECK ALL APPLICABLE LAWS AND REGULATIONS, INCLUDING THE CAMBRIDGE ZONING ORDINANCE TO BE SURE THAT THE PROPERTY CAN BE USED OR ALTERED FOR THE PURPOSE INTENDED.

(Revised: January 2010)

PLEASE READ THESE INSTRUCTIONS BEFORE SUBMISSION PROCEDURE FOR BOARD OF ZONING APPEAL PETITIONS

These procedures are general in nature and not intended to be complete. You should Consult with your advisor as to specific legal requirements that may apply in your case.

- 1. The process generally begins with denial of a Building Permit or Certificate of Occupancy application or with a determination of the need for a Variance or Special Permit, or upon the determination by an official of the Inspectional Services Department (ISD) that relief from the Zoning Ordinance or a special permit is required.
- 2. Next, petition forms, obtainable from the Inspectional Services Department*, must be fully and correctly completed and submitted to the Secretary of the Board of Zoning Appeal along with other required submissions and the filing fee. The petition is then filed with the Office of the City Clerk. The date of filing is the date time-stamped on the petition form by the Office of the City Clerk.

 State Law requires that a public hearing must be held within 65 days of the date of filing.
- 3. A Copy of the Petition is provided to the Planning Board for review and comment. The planning Board reviews Board of Zoning Appeal cases at its regularly scheduled meetings. Dates of Planning Board meetings may be obtained by calling the Community Development Department at 349-4600. It's advisable to check prior to the Board of Zoning Appeal Hearing with the Community Development Department or Inspectional Services Department to determine if the Planning Board submitted any comments.
- 4. The Secretary to the Board of Zoning Appeal sends notices of the scheduled hearing to abutters & abutters to abutters within 300 feet of the subject property, and property owners across the street from the subject property, as described in MGL, Ch. 40A, Sec. 11, at least fourteen days in advance of the scheduled hearing date.
- 5. A similar notice of the scheduled hearing is published for two consecutive weeks in a paper of local circulation. The first advertisement must appear at least two weeks prior to the date of the hearing.
- 6. The petitioner is also required to post a <u>notice</u> at the property prior to the hearing in accordance with the procedures set fourth in Attachment D. Please, read carefully for timely & proper display.
- 7. A notice of the scheduled hearing is posted at the City Clerk's Office two weeks prior to the hearing date.
- 8. At the hearing, the Board reviews the case material, the petitioner presents pertinent information, and the Board takes testimony in favor and testimony in opposition. Usually, cases are decided at the public hearing. Decisions on Variances and Appeals must be filed by the Board with the City Clerk's office within 100 days of the filing date of the application. Decisions on Special Permits must be filed by the Board with the City Clerks office within 90 days of the hearing date. These deadlines can be extended upon written waiver of the applicant.
- 9. A deliberation meeting is held on a subsequent date if a decision is not reached at the original hearing. Generally, no additional testimony is taken at the deliberation hearings. If revised plans are to be submitted, they must be filed by the Monday prior to the hearing.
- 10. The Board's decision, after reasonable time for transcription and typing, (approximately 30 days) is filed in the Office of the City Clerk and a copy is mailed to the petitioner. If no appeal to Superior Court or Land Court is undertaken within twenty (20) days of the date of filing with the City Clerk, the Petitioner brings his or her copy of the decision to the City Clerk, who signs the decision indicating that no appeal has been undertaken. For variances and special permits the petitioner must file this signed copy with the deed for the subject property at the Registry of Deeds. A copy of the decision stamped as filed by the Registry of Deeds must be filed with the Division of Inspectional Services before building permits or certificates of occupancy can be issued.

*Note: Special Permits for certain use categories, as defined in the Zoning Ordinance, are issued by the Planning Board. Applications for Planning Board Special Permits are made at the Community Planning Division at the Community Development Department (349-4657)

BOARD OF ZONING APPEAL (FEE SCHEDULE)

The fee for a public hearing before the Board of Zoning Appeal shall be determined by the category of relief being sought. The fee per case for each category is as follows:

- 1. Parking \$100.00 per space for which relief is requested.
- 2. <u>Signs</u> \$100.00 per sign plus \$2.00 per square foot of signage requiring relief.
- 3. Appeal of Building Department Official's Determination \$100.00
- 4. Additions, Structural Alterations, Dimensional Violations, Alteration of Non-Conforming Structure
 \$100.00 plus \$20.00 per 100 square feet of construction requiring relief.
- 5. Subdivision \$500.00 plus \$100.00 per new lot proposed.
- 6. Conversion to Additional Dwelling Units \$300.00 plus \$100.00 per dwelling unit requested.
- 7. Use Variance, Use Special Permit, Alteration or Enlargement of
 Non-Conforming Uses
 \$100.00 base fee, subject to an additional fee of \$100.00 per occupied
 dwelling) unit or its equivalent requiring relief.

Other uses shall be subject to an additional fee per square foot of new construction or conversion requiring relief as follows:

Under the following Sections of the Zoning Ordinance:

Sec. 4.15	Unlisted Uses	Category to be determined by Zoning Specialist.
Sec. 4.32	Transportation, etc.	20 cents per sq. ft.
Sec. 4.33	Institutional	20 cents per sq. ft.
Sec. 4.34	Office and Lab	20 cents per sq. ft.
Sec. 4.35	Retail Business &	
	Consumer Service	20 cents per sq. ft.
Sec. 4.36	<i>Open Air/Drive-In</i>	20 cents per sq. ft.
Sec. 4.37	Light Industry	25 cents per sq. ft.
Sec. 4.38	Heavy Industry	30 cents per sq. ft.

Projects requesting relief in $\underline{\text{more than one of the above categories}}$ shall be required to pay a total of the fees from each applicable category.



City of Cambridge

Massaceusetts

BOARD OF ZONING APPEAL

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ADDENDUM TO BOARD OF ZONING APPEAL APPLICATION FORM

SUBJECT: DEVIATIONS FROM PLANS APPROVED BY THE BOARD OF ZONING APPEAL (BZA)

WHEN THE BZA GRANTS A VARIANCE OR SPECIAL PERMIT, SUCH APPROVAL IS CONDITIONED ON CONFORMANCE WITH THE EXTERIOR FEATURES OF THE PLANS AND DRAWINGS APPROVED AT THE HEARING BY THE BOARD. THEREFORE, WHEN APPLYING FOR THE BUILDING PERMIT FOR THE APPROVED PROJECT, THE PLANS MUST BE THE SAME AS THOSE APPROVED BY THE BOARD, INCLUDING THE LOCATION AND SIZE OF WINDOWS.

IF THE PLANS ARE NOT THE SAME, THE BUILDING PERMIT CANNOT BE ISSUED.

IF THE APPLICANT FEELS THAT THE EXTERIOR FEATURES OF THE PLANS ARE LIKELY TO UNDERGO MODIFICATION BETWEEN THE TIME OF THE BZA HEARING AND THE APPLICATION FOR THE BULDING PERMIT, THIS SHOULD BE BROUGHT TO THE ATTENTION OF THE BOARD AT THE HEARING SO THE DECISION CAN REFLECT THE FINAL CHANGES AS APPROVED BY THE BOARD. NO CHANGES CAN BE MADE TO PLANS APPROVED BY THE BZA SUBSEQUENT TO THE ISSUANCE OF THE BOARD'S DECISION.

(ATTACHMENT F)



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Massachusetts

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IMPORTANT NOTICE CONCERNING BZA AND

HISTORICAL COMMISSION COORDINATION

For BZA applications where it is proposed to make exterior changes to structures located in historic or neighborhood conservation districts, designated as landmarks, or subject to preservation restrictions, or removed portions of buildings such that the result would amount to substantial demolition of the structure, it is necessary that the applicant obtain approval from the Historical Commission for these cases as required by Ch. 2.78 of the Municipal Code. In order to insure that any relief that might be granted by the BZA takes into consideration actions by the Historical Commission, it is most important that this approval be obtained prior to the BZA hearing date. For a case where a required Historical Commission review has not been completed, the BZA hearing would likely have to be continued to a later date thereby delaying and inconveniencing the applicant.

As this approval could require a hearing before the Historical Commission, it is most important that discussions with the Historical Commission staff be initiated at the earliest possible time.

If you have any questions as to whether your property is subject to Historical Commission review, you should contact the Historical Commission.

ADDENDUM TO THE BOARD OF ZONING APPEAL APPLICATION FORM

RE: ADDITIONAL PUBLIC NOTIFICATION REQUIREMENTS FOR VARIANCE OR SPECIAL PERMIT APPLICATIONS.

AN AMENDMENT TO THE CAMBRIDGE ZONING ORDINANCE UNDER ARTICLE 10.000, SECTION 10.42.1 REQUIRES THAT APPLICANTS FOR A VARIANCE OR SPECIAL PERMIT ERECT AND MAINTAIN ONE OR MORE NOTIFICATION PANELS AT THE SITE FOR WHICH THE VARIANCE OR SPECIAL PERMIT RELIEF IS REQUESTED. THE REQUIREMENTS ARE AS FOLLOWS:

- A. The number of notification panels required to be erected is based on the street frontage of the property. For the first 200 feet of frontage, one panel is required. Additional panels are required for each additional 500 feet of frontage or portion thereof.
- B. The panels shall be securely mounted on the lot at the street line or within the property, but in any case not more than twenty (20) feet from the street line.
- C. The location of the panel(s) shall be shown on the site plan included with the application documents. The locations are subject to the approval of the Inspectional Services Department.
- D. The panels will be available for pickup by the applicant from the BZA Secretary at the Inspectional Services Department, no later than 3 weeks from the hearing date. The wording on the panels will be completed by the Inspectional Services Department.
- E. The panels must be installed by the applicant at the designated locations, no later than fourteen (14) days prior to the public hearing. Failure to install the panels by this date could result in rescheduling of the public hearing.
- F. The panels must be displayed continuously until such time as the notice of decision is filed with the city clerk. Note: For information purposes, it can take approximately a month and a half between the time of the hearing and the filing of the notice of decision.
- G. After the notice of decision has been filed, the panel shall be promptly removed and discarded.

Note: The following information will be included on the notification panel:

Name of Petitioner;

Description of Premises:

Information concerning the public hearing:

Nature of relief requested;

Case number, and

City point of contact for additional information of submission of comments.

(ATTACHMENT D)

Fees are based on the magnitude of the relief being requested and not that ultimately granted.

Notwithstanding the above schedule of fees, City Agencies and Non-Profit Institutions established for the welfare of citizens of the City of Cambridge shall be subject to a maximum fee of \$100.00 or the actual cost of advertisement and notification of the Board of Zoning Appeal's hearing, whichever is greater.

Those structures and uses begun in advance of obtaining necessary relief from the Board of Zoning Appeal shall be subject to an additional charge of ten percent of the applicable fee for corrective hearing before the Board of Zoning Appeal.

The fee for renotification of a case pending before the Board of Zoning Appeal shall be \$100.00 or the actual cost of advertisement and notification of the Board of Zoning Appeal's hearing, whichever is greater.

In no case shall the fee for a hearing before the Board of Zoning Appeal exceed three thousand dollars (\$3,000.00).

The foregoing fee schedule may be waived and the fee for a given case established by the Board of Zoning Appeal by variance from the Board of Zoning Appeal.

All Board of Zoning Appeal decisions predicated on the fulfillment of certain conditions assigned by the Board shall be subject to certification for compliance with those conditions on an annual or other appropriated basis. The fee for such certification shall be \$25.00 per year.

PROCEDURES FOR SUBDIVIDING EXISTING BUILDINGS OR PARCELS

- 1. Petition is made to the Board of Zoning Appeal for subdivision approval.
- 2. Twenty days after the Board of Zoning Appeal's decision granting the subdivision has been filed, petitioner must bring the decision to the Office of the City Clerk for Certification that there has been no appeal to the Superior Court. Then, the decision must be filed with the Registry of Deeds and evidence of such filing submitted to the Department of Inspectional Services.
- 3. When an interior lot line is created through an existing building or connected buildings, a total separation is to be made with a fire wall in accordance with the provisions of the Massachusetts State Building Code.
- 4. An existing fire wall must be certified by a registered professional Architect, Engineer, or qualified person.
- 5. Where compliance with a fire wall is impractical because of structural or construction difficulties or regulatory conflicts, compliance alternatives may be submitted to the building inspector for consideration and approval.
- 6. All utilities must be divided and be totally independent in each unit. All penetrations of the separated utilities left in a fire wall must be inspected and approved.
- 7. Upon compliance with the conditions of the decision and subdivision of the property, an application for a Certificate of Occupancy must be submitted.
- 8. Prior to issuance of the final Certificate of Occupancy the following items must be on file with the Inspectional Services Department.
 - a) Reports attesting items No. 3, 4, 5, 6 by a registered professional Architect, Engineer or qualified person.
 - b) A copy of the subdivision plan and relevant documents as recorded with the Registry of Deeds.